

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION**

**NORMAN LEE MCQUIRTER**

**PLAINTIFF**

**v.**

**CAUSE NO. 3:13CV1004-LG-JCG**

**CAPT. UNKNOWN YOUNG;  
OFFICER UNKNOWN MAYS;  
OFFICER UNKNOWN LOWHAM; and  
WARDEN FRANK SHAW**

**DEFENDANTS**

**ORDER ADOPTING REPORT AND RECOMMENDATION AND  
DISMISSING ACTION WITHOUT PREJUDICE**

This cause comes before the Court on the [23] Report and Recommendation of Chief United States Magistrate Judge John M. Roper.<sup>1</sup> On February 21, 2013, the plaintiff filed a Complaint against the defendants alleging that while he was in prison, he was stabbed when the cell doors were left unlocked and several inmates were able to approach him. He claims that the defendant officers did nothing to stop the attack and that defendant Warden Shaw improperly trained these individuals.

The Magistrate Judge issued multiple Orders to Show Cause with respect to the plaintiff's failure to comply with Court Orders, including reminding the plaintiff of his obligation to inform the Court of any address change. On March 18, 2014, after the Court made an attempt to schedule an omnibus hearing but was informed that the plaintiff had been released from prison, the Magistrate Judge issued a final Order to Show Cause, stating that "[b]y choosing not to provide the court with his

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<sup>1</sup> This case was reassigned to Magistrate Judge John C. Gargiulo by Order of this Court dated August 5, 2014.

current address, plaintiff has failed to prosecute this case diligently.” (Order 2, ECF No. 22). The Magistrate Judge gave the plaintiff 15 days to “file a written response, showing cause why this case should not be dismissed for failure to prosecute.” (*Id.*). The plaintiff did not do so. The Magistrate Judge then issued his Report and Recommendation recommending that this cause be dismissed without prejudice for failure to prosecute. The plaintiff has never filed an objection or otherwise responded to the final Order to Show Cause or the Report and Recommendation.

Where, as here, no party has objected to the Magistrate Judge’s Report and Recommendation, the Court need not conduct a de novo review of it. *See* 28 U.S.C. § 636(b)(1). In such cases, the Court need only review the Report and Recommendation and determine whether it is either clearly erroneous or contrary to law. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989). Having conducted the required review, the Court is of the opinion that the Report and Recommendation is neither clearly erroneous nor contrary to law. *See* Fed. R. Civ. P. 41(b); *Hickerson v. Christian*, 283 F. App’x 251, 253 (5th Cir. 2008) (“A district court may sua sponte dismiss an action for failure to prosecute under Rule 41(b).”); *see also Wade v. Farmers Ins. Group*, 45 Fed. App’x 323, \*1 n.12 (5th Cir. 2002) (noting that “it is the responsibility of even incarcerated litigants to inform the court of a change of address”).

**IT IS THEREFORE ORDERED AND ADJUDGED** that the [23] Report

and Recommendation of United States Magistrate Judge John M. Roper entered in this cause should be, and hereby is, adopted as the finding of this Court.

**IT IS FURTHER ORDERED AND ADJUDGED** that this action is  
**DISMISSED WITHOUT PREJUDICE.**

**SO ORDERED AND ADJUDGED** this the 9<sup>th</sup> day of December, 2014.

s/ *Louis Guirola, Jr.*  
LOUIS GUIROLA, JR.  
CHIEF U.S. DISTRICT JUDGE